

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK**

**DAVID VAZQUEZ, LEEANN MCNALLY,
CRAIG MOORE, CHRIS PIERRE,
THOMAS SHARKEY AND DOREEN
VAZQUEZ, individually and on behalf of all
others similarly situated,**

Plaintiffs,
- against -

MIDLAND FUNDING, LLC, MIDLAND FUNDING, LLC DBA IN NEW YORK AS MIDLAND FUNDING OF DELAWARE, LLC, MIDLAND CREDIT MANAGEMENT, INC., RUBIN & ROTHMAN, LLC, FORSTER & GARBUS LLP, COHEN & SLAMOWITZ, LLP and PRESSLER AND PRESSLER LLP

Defendants.

STATE OF RHODE ISLAND)
) ss.
COUNTY OF KENT)

I, Xenia Murphy, swear, depose and say the following:

1. I am employed by Midland Credit Management, Inc. ("MCM") as a Director of Legal Outsourcing, and I have personal knowledge of this matter.

2. I make this affidavit in support of the motion for summary judgment of Midland Funding, LLC, Midland Funding, LLC DBA in New York as Midland Funding of Delaware, LLC (together "MF"), and MCM (collectively, "Midland").

3. On October 13, 2011, MF purchased a former Beneficial New York, Inc. (“Beneficial”) account, owed by Plaintiff Leann (DeRosa) McNally (“McNally”), from HSBC Consumer Lending (USA), Inc., as part of a portfolio of charged-off HSBC debts.

Civil Action No.
2:14-cv-00018-JMA-AKT

**AFFIDAVIT IN OF XENIA MURPHY
REGARDING THE ACCOUNT OF
PLAINTIFF MCNALLY**

4. I have personal knowledge of the fact that MF owns McNally's former Beneficial account by virtue of my work at MCM and my review of MCM's records applicable to McNally's debt.

5. Attached hereto as Murphy-McNally Ex. A and Bates stamped MCM-967 to MCM-0991, is a (sealed) true and correct copy, with certain redactions to protect proprietary information, of the confidential purchase agreement between HSBC Consumer Lending (USA), Inc., and MF by which MF purchased the portfolio of charged-off debts.

6. McNally's former Beneficial debt obligation was included in the portfolio of charged-off debts transferred pursuant to Murphy-McNally Ex. A.

7. The information pertaining to this portfolio of charged-off debts was transferred to MCM in a computerized form through a media file containing the information applicable to each of the charged-off debts.

8. Attached hereto as Murphy-McNally Ex. B and Bates stamped MCM-314 is a copy of the information provided by HSBC Consumer Lending (USA), Inc., pursuant to the Bill of Sale/Assignment of Accounts transferred on or about October 13, 2011, in connection with the sale of accounts from HSBC Consumer Lending (USA), Inc., to MF, identifying McNally's former Beneficial as one of the purchased debts within the HSBC Consumer Lending (USA), Inc.'s portfolio of accounts sold to MF.

9. HSBC Consumer Lending (USA), Inc., provided MF with certain evidence of McNally's former Beneficial account, including a sample copy of the offer of credit and governing terms and conditions that Beneficial provided to Plaintiff, attached hereto as Murphy-McNally Ex. C and Bates stamped MCM-0316 to MCM-0317.

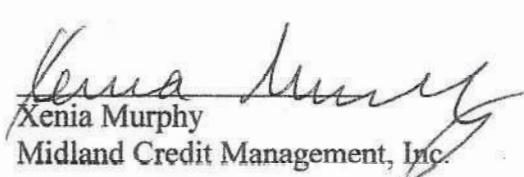
10. Beneficial also provided MF a copy of the front and back of the offer to and acceptance of credit by McNally in the form of an endorsed \$5,000 check payable to LeAnn DeRosa, attached hereto as Murphy-McNally Ex. D and Bates stamped MCM-0318 to MCM-0319.

11. After acquiring McNally's former Beneficial debt, acting on behalf of MF, MCM sent McNally an initial collection letter, titled "Notice of New Ownership *And* Pre-Legal Review, on October 19, 2011. A true and correct copy of this letter, with certain redactions for privacy, is attached hereto as Murphy-McNally Ex. E and Bates stamped MCM-0311 to MCM-0313.

12. Attached hereto as Murphy-McNally Ex. F and Bates stamped F&G 000165 – F&G 000168 is a true and correct copy of the Affidavit of Kayla Haag in Support of MF's Motion for Default Judgment against McNally, dated February 14, 2012, and its Certificate of Conformity, supporting MF's efforts to collect McNally's former Beneficial account.

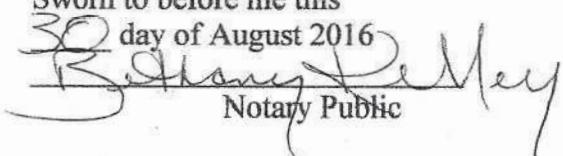
13. Attached hereto as Murphy-McNally Ex. G and Bates stamped F&G 000007 – F&G 000010 is a true and correct copy of the Affidavit of Nancy Kohls in Support of MF's Motion for Default Judgment against McNally, dated May 15, 2012, and its Certificate of Conformity, supporting MF's efforts to collect McNally's former Beneficial account.

Dated: Kent, Rhode Island
August 30 2016


Xenia Murphy
Midland Credit Management, Inc.

Sworn to before me this

30 day of August 2016


Bethany Kelley
Notary Public

